

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JENNIFER TULLEY ARCHITECT, INC.,

Plaintiff,

v.

JEANNIE SHIN,

Defendant.

Case No. [21-cv-00619-AGT](#)

ORDER ON MOTION TO STRIKE

Re: Dkt. No. 80

Shin voluntarily amended her affirmative defenses in response to JTA's motion to strike. *See* Dkt. 86. Shin, however, didn't seek leave before doing so. Nor did Shin obtain JTA's consent or otherwise identify a rule that would allow her to amend without leave or JTA's consent. The Court would be inclined to grant Shin leave to amend her answer to replead her affirmative defenses. But Shin must first request leave, or to save resources, the parties may stipulate to the amendment. JTA's motion to strike Shin's unamended affirmative defenses is granted.

JTA's motion to strike footnote 1 in Shin's counter-complaint is denied. JTA maintains that the footnote is harassing and contradicts this Court's October 17, 2022, order. The footnote, in which Shin says that one of Jennifer Tulley's allegations is "plain false—and was previously withdrawn," dkt. 73 at 4 n.1, isn't harassing and doesn't contradict the Court's October 17 order. The footnote expresses a litigating position, which JTA and Tulley may challenge at trial or on summary judgment. JTA also asks the Court to sanction Shin for including footnote 1 in her counter-complaint. Sanctions aren't called for. The request is denied.

IT IS SO ORDERED.

Dated: January 3, 2023



Alex G. Tse
United States Magistrate Judge